

California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER NO. R1-2003-0131

FOR

FORMER McNAMARA & PEEPE CORPORATION
APPOINTED TRUSTEE IN BANKRUPTCY

FORMER McNAMARA & PEEPE CRESCENT CITY SAWMILL
1607 FIFTH STREET
CRESCENT CITY, CALIFORNIA

Del Norte County

The Regional Water Quality Control Board, North Coast Region, (hereinafter Regional Water Board) finds that:

1. McNamara & Peepe Corporation owned and operated a sawmill in Crescent City, California, immediately east of U. S. Highway 101, hereinafter the "Site" (Attachment A). The Site occupies approximately 40 acres on several parcels at 1607 Fifth Street and it is located in Section 28, Township 16N, Range 1W, Humboldt Baseline and Meridian.
2. The McNamara & Peepe Corporation operated a sawmill on the Site from the mid-1940's until December 18, 1981, when the sawmill ceased operations. The McNamara & Peepe Corporation filed for bankruptcy in 1981 and the Bankruptcy Court appointed a Trustee in Bankruptcy for the debtor. The Trustee has possession and control of the former McNamara & Peepe Crescent City Sawmill Site. Hereinafter McNamara & Peepe Corporation and the Trustee will be referred to as "the Dischargers."
3. Sawmill operations included a log pond and surrounding log decks for log storage. A used drum storage area was located near the log pond east of the sawmill building. Over the course of operations, various wood treatment chemicals including copper 8-quinolinolate, noxtane, and Chapman P-180[®] were applied to cut lumber for sapstain control in the sawmill and planning mill areas. Earlier operations involved application of the wood treatment chemicals using a spray booth, which continuously showered cut or planed lumber as it moved through the booth on a conveyor belt, known as the green chain. Later upgrades at the Site included replacement of the sawmill spray booth with a dip tank.
4. Chapman P-180[®] contains methanol and chlorinated phenolics including pentachlorophenol and tetrachlorophenol. The wood treatment chemical was mixed with water in a 500-gallon aboveground tank and pumped to a spray booth or a dip tank on the green chain. The area beneath the dip tank was bermed but not adequately contained to prevent overflow of dripping wood treatment chemicals. The dip tank and green chain were inadequately covered allowing storm water contact with wood treatment chemicals. The record includes documentation indicating that storm water runoff containing wood treatment chemicals would overflow the bermed area, discharging to the log pond and Elk Creek Estuary via numerous routes.

5. Heavy equipment and vehicle maintenance operations were conducted onsite. Crankcase oil and other waste oils were collected and reused. Steam cleaning was performed on bare ground with no provision for waste collection or treatment. Waste handling practices at the Site were inadequate, resulting in the discharge of the waste to waters of the State. For example, during a December 1979 Regional Water Board inspection, Staff observed oil drums and Chapman P-180® drums lying on the ground adjacent to the log pond and Staff observed a heavy oil sheen discharging from the Site to Elk Creek Estuary.
6. On December 15, 1981, the Executive Officer issued Monitoring and Reporting Program No. 81-229 to McNamara & Peepe Corporation, requiring the collection of technical monitoring data and submittal of technical monitoring reports. No monitoring reports were submitted as required by Order No. 81-229. Order No. 81-229 is now obsolete because the former mill is no longer active and all associated building structures have been removed.
7. On January 26, 1983, Regional Water Board staff took samples of sump and storm water runoff from the Site. Laboratory analytical results from these samples indicated the presence of pentachlorophenol and tetrachlorophenol at levels up to 7,500 ug/l (parts per billion (ppb)) and 11,000 ppb, respectively. On March 6, 1983, Regional Water Board staff notified the McNamara & Peepe Corporation of the presence of wood treatment chemicals in sump and storm water discharges from the Site and requested a remediation plan to cleanup the discharges.
8. On April 5, 1983, the McNamara & Peepe Corporation submitted a plan to clean up the wood treatment chemicals at the Site, to be followed by submittal to the Regional Water Board of a report documenting cleanup activities. A report documenting cleanup activities was not submitted.
9. In 1987, fish tissue samples were collected from Elk Creek Estuary as a part of the United States Environmental Protection Agency's (US EPA) National Bioaccumulation Study. Analytical results indicated 6.54 picograms per gram (pg/g or parts per trillion (ppt)) total chlorinated dibenzo dioxins and chlorinated dibenzofurans in fish tissue. Several congeners were detected, including 0.63 ppt of 2,3,7,8-tetra-chlorinated dibenzo-p-dioxin (TCDD). The Toxicity Equivalency Concentration was found to be 0.84 ppt, of which 83 percent was contributive of 2,3,7,8 or 1,2,3,7,8 congeners.
10. On May 8, 1989, Regional Water Board staff received notice of the Trustee's intent to abandon real property, including the Site. On May 16, 1989, the Regional Water Board filed an objection to the Trustee's notice of intent to abandon the Site. On June 12, 1989, the Regional Water Board was notified that the Trustee had dropped his application to abandon the property that included the Crescent City Sawmill Site. In December 1992 and August 1995 the Regional Water Board again received notices of the Trustee's intent to abandon real property that could include the Site, and the Regional Water Board filed successful notices of objection on both occasions.
11. On March 30, 1993, the Executive Officer issued Cleanup and Abatement Order 93-53. That Order required the collection of technical data and submittal of technical reports to

define the extent of Site contamination. No workplans or reports were submitted as required by Cleanup and Abatement Order 93-53.

12. On December 13, 1999, the Executive Officer issued Cleanup and Abatement Order 99-76. That Order rescinded and replaced Cleanup and Abatement Order 93-53, except for the purposes of enforcing past violations of Cleanup and Abatement Order 93-53. Activities performed to comply with Cleanup and Abatement Order 99-76 included submittal of technical workplans and reports documenting historic site activities, and completion of preliminary soil, groundwater, and sediment investigations.
13. US EPA collected Site soil, sediment, and fish tissue samples in September 2000. Several chlorinated dibenzo dioxins and chlorinated dibenzofurans congeners were detected, including 17 ppt of 2,3,7,8-tetra-chlorinated dibenzo-p-dioxin (TCDD) in Elk Creek Estuary sediment downstream of historic Site storm water runoff. TCDD was also reported at 0.72 ppt in fish tissue samples collected by US EPA in September 2000.
14. The Dischargers conducted preliminary Site investigations in November 2000 to comply with specific provisions of Cleanup and Abatement Order 99-76. Preliminary investigation analytical results indicated up to 11,000 ug/kg (micrograms per kilogram or parts per billion (ppb)) pentachlorophenol and up to 7,500 ppb tetrachlorophenol in Site soil near the former dip tank and green chain. Analytical results also indicated up to 305.14 ppt total chlorinated dibenzo dioxins and chlorinated dibenzofurans in Elk Creek Estuary sediments.
15. On January 18, 2002, the Executive Officer issued Cleanup and Abatement Order No. R1-2002-0021. Cleanup and Abatement Order No. R1-2002-0021 rescinded and replaced Cleanup and Abatement Order 99-76, except for the purposes of enforcing past violations of Cleanup and Abatement Order 99-76. Few activities were performed to comply with Cleanup and Abatement Order R1-2002-0021, but tasks completed included submittal of technical workplans and reports for continued soil, groundwater, and sediment investigations.
16. The dischargers conducted further contaminant investigations in June 2002. PCP was detected in shallow soil up to 250,000 ppb. The highest concentration was detected along the greenchain in the approximate location of the former dip tank location. The concentration of PCP in this area exceeds the California Code of Regulations Title 22 criteria for hazardous waste of 17,000 ppb. The highest level of dioxin reported was detected in shallow soil at 10,740 ppt in the spray drip area.
17. Site soil, groundwater, and surface water runoff samples were collected between February and April 2003. Analytical results from 2003 soil samples revealed the presence of leachable concentrations of PCP and dioxin TEQ up to 277 ug/l and 0.0234875 ng/l respectively. Analytical results from 2003 groundwater samples revealed the presence of PCP and dioxin TEQ up to 0.734 ug/l and 0.01093 ng/l respectively. Analytical results from 2003 runoff samples revealed the presence of PCP and dioxin TEQ up to 0.606 ug/l and 0.00358 ng/l respectively. The 2003 sampling results confirm actual and potential

ongoing discharges of PCP and dioxin from impacted site soil to groundwater and surface water.

18. Pentachlorophenol is a carcinogenic substance. Pentachlorophenol and tetrachlorophenol are toxic to fish and other aquatic organisms, impart undesirable taste, and odors to fish flesh, and can accumulate in bottom sediments. Chlorinated dibenzo dioxins and chlorinated dibenzo-furans bioaccumulate in aquatic tissues and are toxic to aquatic organisms.
19. Fresh water ponds including the former log pond and oxbow pond are located within or adjacent to Site boundaries. The Site is located adjacent to the Elk Creek Estuary, a tributary to Crescent City Harbor. Extensive wetlands exist on and near the Site.
20. The existing and potential beneficial uses of the ponds, Elk Creek Estuary, and Crescent City Harbor include:
 - a) municipal & domestic supply
 - b) agricultural supply
 - c) industrial process supply
 - d) groundwater recharge
 - e) non-contact water recreation
 - f) water contact recreation
 - g) commercial and sport fishing
 - h) cold freshwater habitat
 - i) wildlife habitat
 - j) migration of anadromous fish
 - k) fish spawning area
 - l) estuarine habitat
 - m) aquaculture
 - n) navigation
 - o) area of special biological significance
 - p) habitat for rare and endangered species
 - q) shellfish harvesting
 - r) marine habitat
 - s) saline water habitat
21. The Site overlies shallow groundwater that is less than five feet below ground surface. Site groundwater may be in hydraulic continuity with surface waters of the fresh water ponds and the Elk Creek Estuary.
22. The beneficial uses of areal groundwater include:
 - a. domestic water supply
 - b. agricultural supply
 - c. industrial supply
23. The Dischargers named in this Order have caused or permitted, cause or permit, or threaten to cause or permit waste to be discharged where it is, or probably will be, discharged into waters of the State and creates, or threatens to create, a condition of pollution or nuisance. The discharge and threatened discharge of contaminants has unreasonably affected water quality in that the discharge or threatened discharge is deleterious to the above described beneficial uses of State waters, and has impaired water quality to a degree which creates a threat to public health and public resources and therefore, constitutes a condition of

pollution or nuisance. These conditions threaten to continue unless the discharge or threatened discharge is permanently cleaned up and abated.

24. The California Water Code, and regulations and policies developed thereunder, require cleanup and abatement of discharges and threatened discharges of waste to the extent feasible. Cleanup to background levels is the presumptive standard. Any proposed alternative that will not achieve cleanup to background levels, must be supported with evidence that it is technologically or economically infeasible to achieve background levels, and that the pollutant will not pose a substantial present or potential hazard to human health or the environment for the duration of the exceedance of background levels (SWRCB Res. 68-16 and 92-49, 23 CCR section 2550.4, subs. (c), and (d)).
25. Water quality objectives exist to ensure the beneficial uses of water. Several beneficial uses of water exist, and the most stringent objective for protection of all beneficial uses is selected as protective for water quality. A listing of the water quality objectives for waters of the State affected by discharges from the Site is included as Attachment B to this Order.
26. Cleanup and abatement activities required by Cleanup and Abatement Order No. R1-2002-0021 remain to be performed at the Site. These activities include: a) interim actions to abate ongoing discharges, b) feasibility study, and assessment of remedial alternatives, c) appropriate cleanup and abatement activities, and d) monitoring. The remaining activities require a new schedule for completion. Therefore, this Order replaces Cleanup and Abatement Order No. R1-2002-0021 as to the cleanup and abatement activities required to be conducted on the Site and reflects the new schedule for completion of required activities. This Order leaves Cleanup and Abatement Order 93-53, Cleanup and Abatement Order No. 99-76, and Cleanup and Abatement Order No. R1-2002-0021 intact for the purpose of enforcement for violations of those Cleanup and Abatement Orders.
27. Discharge prohibitions contained in the Basin Plan apply to this site. State Water Resources Control Board Resolution 68-16 applies to this site. State Water Resources Control Board Resolution 92-49 applies to this site and sets out the "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Section 13304 of the California Water Code."
28. Reasonable costs incurred by Regional Water Board staff in overseeing cleanup or abatement activities are reimbursable under Section 13304(c)(1) of the California Water Code.
29. The Regional Water Board will ensure adequate public participation at key steps in the remedial action process, and shall ensure that concurrence with a remedy for cleanup and abatement of the discharges at the site shall comply with the California Environmental Quality Act (Public Resources Code Section 21000 et seq. ("CEQA")).
30. The issuance of this Cleanup and Abatement Order is an enforcement action being taken for the protection of the environment and, therefore, is exempt from the provisions of

CEQA in accordance with Title 14, California Code of Regulations, Sections 15308 and 15321.

31. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The State Water Board must receive the petition within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request. In addition to filing a petition with the State Water Board, any person affected by this Order may request the Regional Water Board to reconsider this Order. Such requests should be made within 30 days of the date of this Order. Note that even if reconsideration by the Regional Water Board is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal rights.
32. Failure to comply with the terms of this Order may result in enforcement under the CWC. Any person failing to provide technical reports containing information required by this Order by the required date(s) or falsifying any information in the technical reports is, pursuant to CWC Section 13268, guilty of a misdemeanor and may be subject to administrative civil liabilities of up to one thousand dollars (\$1,000.00) for each day in which the violation occurs. Any person failing to cleanup or abate threatened or actual discharges as required by this Order is, pursuant to CWC Section 13350(e), subject to administrative civil liabilities of up to five thousand dollars (\$5,000.00) per day or ten dollars (\$10) per gallon of waste discharged.

THEREFORE, IT IS HEREBY ORDERED that, except for the purposes of enforcement of past violations Cleanup and Abatement Order No. R1-2002-0021¹ is hereby rescinded, and that pursuant to California Water Code Sections 13267(b) and 13304, the Dischargers shall cleanup and abate the discharge and threatened discharge and shall comply with the provisions of this Order:

1. The Dischargers shall conduct all work under the direction of a California registered engineer or geologist experienced in pollution investigation and cleanup in accordance with all local ordinances. All necessary permits shall be obtained.
2. By January 15, 2003, the discharger shall submit an interim remedial action plan (IRAP), including estimated costs for proposed tasks. The IRAP shall be satisfactory to the Regional Water Board Executive Officer and shall be limited to, proposals for the following elements:
 - (a) Remedial actions to address onsite soil impacted with concentrations of Site contaminants correlating to total threshold limit concentrations (TTLC) concentrations at or above the California Code of Regulations, Title 22 criteria for hazardous waste;

¹ Monitoring and Reporting Program No. 81-229, Cleanup and Abatement Order 93-53, and Cleanup and Abatement Order No. 99-76 have all been rescinded, except for the purposes of enforcement of past violations.

- (b) Confirmation sampling for assurance that all soil meeting criteria referenced in item (a) above has been appropriately mitigated;
 - (c) Timely disposal of investigation-derived residual wastes (IDRW) accumulated during the course of site investigations; and
 - (d) A time schedule to implement tasks contained in the IRAP, for the Regional Water Board Executive Officer's concurrence.
- 3. In accordance with the time schedule described in item (d) of Provision 2 above, the Dischargers shall submit a complete remedial action report, satisfactory to the Regional Water Board Executive Officer. The remedial action report shall include the following elements:
 - (a) A concise description of the actions taken to comply with Provision 2 items (a through d);
 - (b) A brief summary of investigation and cleanup work conducted at the site to date. The summary shall include a description of residual site contamination in each functional or operational area and recommendations to address the protection of state water, human health, and the environment for each area;
 - (c) Mitigation measures to prevent continued migration of residual site contamination to surface water bodies; and
 - (d) A contingency plan to address any future discharges identified through ongoing surface water monitoring.
- 4. At least eight months prior to seeking or applying for any entitlement for development of the site, the Dischargers shall submit a final remedial action plan (RAP), satisfactory to the Regional Water Board Executive Officer, proposing implementation of final remedial alternatives, which in combination with the proposed site development, will achieve and/or continue to ensure the protection of water quality. In addition to the final remedial action proposal(s) the RAP shall include:
 - (a) A proposal for post-remedial action monitoring;
 - (b) A detailed soil contingency plan, which must be implemented to address any potential subsurface activities at the site during the proposed site development; and
 - (c) A schedule for implementation;
- 5. The Dischargers shall implement the RAP in accordance with the schedule approved by the Regional Water Board Executive Officer.

6. The Dischargers shall promptly pay in accordance with the invoicing instructions all invoices for Regional Water Board oversight.
7. If, for any reason, the Dischargers are unable to perform any activity or submit any documentation in compliance with the deadlines in the workplan implementation schedule submitted pursuant to this Order and concurred with by the Executive Officer, the Dischargers may request, in writing, an extension of the time as specified. The written extension request shall include justification for the delay and shall be received by the Regional Water Board not less than 15 calendar days prior to the deadline sought to be extended. An extension may be granted for good cause, in which case this Order will be accordingly revised.

Ordered by _____
Catherine E. Kuhlman
Executive Officer

December 1, 2003